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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,583	05/03/2001	Wolfgang Matthes	A-2820	8707

7590 03/13/2003

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/848,583	MATTHES ET AL.	
	Examiner	Art Unit	
	Jason Prone	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 January 2003.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-10, 12 and 13 is/are pending in the application.

4a) Of the above claim(s) 11 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10, 12 and 13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 03 May 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 6.                    6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I in Paper No. 8 is acknowledged.
2. Claim 11 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 8.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both a control unit and an unknown item in Figure 1 and reference character "15" has been used to designate both a synchronous belt and front stops. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

4. The disclosure is objected to under 37 CFR 1.71 for parts of the specification lacking clarity. For example, the following items are not understood: It is clear that the first drive motor 1, through the intermediary of the synchronous belt 15 of the synchronous belt pulley 21 and of the transmission 22 achieves a vertical, non-harmonic oscillatory motion of the knife lifting device 2. It is unclear how the lifting device 2 uses the vertical, non-harmonic oscillatory motion to press knives 3 against the knife 13.
5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-10, 12, and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

On page 10 lines 19-24, it is unclear how the lifting device 2 uses the vertical, non-harmonic oscillatory motion to press knives 3 against the knife 13. It is uncertain if the whole lifting mechanism 2 moves up and down to move the knives 3 towards knife 13 or if the lifting mechanism pivots about the screw (Figure 2) and during this pivot the blades are dropped down to cut the work piece. Also, it is not clear what structure inside or outside the transmission 22 connects the first drive 1 to the lifting mechanism 2 and what structure allows the lifting mechanism 2 to have the vertical, non-harmonic oscillatory motion. Finally, it is not clear what type of cutting is taking place. It is uncertain if knife 13 is a stationary blade to create a shearing cut with knives 3 or blade 13 acts as an anvil and knives 3 perform a punching/stamping cut. The functional language provided is not supported with any structure shown in the Figures or any structural language explaining how the lift mechanism moves knives 3 towards knife 13 to create the cutting action.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-10, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 1, it is unclear how the lifting device 2 uses the vertical, non-harmonic oscillatory motion to press knives 3 against the knife 13. It is uncertain if the whole lifting mechanism 2 moves up and down to move the knives 3 towards knife 13 or if the lifting mechanism pivots about the screw (Figure 2) and during this pivot the blades are dropped down to cut the work piece. Also, it is not clear what structure inside or outside the transmission 22 connects the first drive 1 to the lifting mechanism 2 and what structure allows the lifting mechanism 2 to have the vertical, non-harmonic oscillatory motion. Finally, it is not clear what type of cutting is taking place. It is uncertain if knife 13 is a stationary blade to create a shearing cut with knives 3 or blade 13 acts as an anvil and knives 3 perform a punching/stamping cut. The functional language provided is not supported with any structure shown in the Figures or any structural language explaining how the lift mechanism moves knives 3 towards knife 13 to create the cutting action.

9. It is noted that claims have not been rejected over prior art. However, comment with respect to allowability cannot be made at this time in view of the issues under 35 USC § 112.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McCain, Rathert, Davis, Ito, Peterson, Heutschi, Uchida, Herman, and Nakajima et al.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Allen N. Shoap  
Supervisory Patent Examiner  
Group 3700

JP  
March 10, 2003